

IN THE HIGH COURT OF MYSORE AT BANGALORE

DATED THIS THE 26TH DAY OF MAY, 1998

BEFORE

THE HON'BLE MR.JUSTICE R.V. RAVENDRAN

HOUSE RENT REVISION PETITION NO: 1445/1997

BETWEEN:

A.Abbaiiah Reddy since dead by LRs.

1. Smt.Sarojamma
w/o late A.Abbaiiah Reddy,
2. A.Jagadish s/o late R.Abbaiiah Reddy
3. A.Vimala d/o - " -
4. A.Syothi d/o - " -

all are r/o Kodiballi,
Varthur Hobli,
H.L.D.Area,
Bangalore- 3.

PETITIONERS

(By Sri.S.Hanumanthaiah, Adv.,)

AND:

CPL Acharya
s/o Raja Acharya
residing at 24/1, Air Force,
quarters, Opposite to ISRO Gate,
Maruthesh Palya,
Bangalore 17.

RESPONDENTS.

(By Sri.S.R.Lakshadipathi Reddy, Adv.,)

This petition is filed under S.50(1) of the KRC Act, against the order No. 3-11-1997 passed in HRC No.991/1997 on the file of the VII Adil., Judge, Court of Small Causes, Bangalore, ordering the prayer of the 3rd party to hear her application for impleading her as a necessary party in this case is to be considered before considering the prayer of the petitioner to close the case.

This petition coming on for orders this day, the Court made the following:-

O R D E R...

O R D E R

The petitioners who are the legal heirs of Abbaiah Reddy filed a petition for eviction against the respondent under proviso (h) & (j) to Section 21(1) of the Karnataka Rent Control Act, 1961 ('Act' for short). During the pendency of the said proceedings, petitioners filed a memo on 27-10-1997 with acknowledgment of delivery of possession and settlement of rents from the respondent and sought dismissal of the petition as not pressed. In the meanwhile, one R. Jayamma filed an application for impleading contending that she was the owner of the property. The Court below has passed an order dated 3-11-1997 holding that it will consider the application of Jayamma for impleading before considering the prayer of the petitioners to close the petition as not pressed. Petitioners are aggrieved.

2. According to the petitioners, as they have filed a memo for not pressing the petition, the Court could not postpone consideration of the said memo and dismissal of the petition merely because

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the application by third party for impleading is pending.

3. The Court has not rejected the application for dismissal of the petition. Petitioners have not unconditionally sought withdrawal of the petition. Petitioners had filed acknowledgment regarding delivery of possession of the premises and therefore sought dismissal of the petition as not pressed. In the circumstances, having regard to the allegations made in the application for impleading, if the Court wanted to consider the application for impleading before considering the application for dismissal of the petition, it cannot be said that the Court acted arbitrarily or perversely. Though the petitioners may be dominus litus in regard to the litigation and can at any time chose to terminate the proceedings, having regard to the facts and circumstances of a particular case, the Court can postpone consideration of the request for dismissal.

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4. Having regard to the facts and circumstances,
I do not consider to be a fit case for interference
under Section 50(1) of the Act. Petition is
therefore rejected. Hence it is unnecessary to
consider the applications-I.As.II & III for impleading.

Sd/-
JUDGE

sp/300598